

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

A. MARK HUBER,

Plaintiff,

v.

ORDER
04-CV-694A

JO ANNE B. BARNHART, Commissioner
of Social Security,

Defendant.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On July 21, 2005, Magistrate Judge Scott filed a Report and Recommendation, recommending that the decision of the Commissioner be reversed and the matter remanded for further administrative proceedings to determine the amount of benefits plaintiff is entitled to. The Magistrate Judge also recommended that defendant's motion for judgment on the pleadings be denied and plaintiff's motion for similar relief in his favor be granted.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the decision of the Commissioner is reversed and the matter remanded for further administrative proceedings to determine the amount of benefits plaintiff is entitled to. IT IS FURTHER ORDERED that the defendant's motion for judgment on the pleadings is denied and

plaintiff's motion for similar relief in his favor is granted. The Clerk of Court shall take all steps necessary to close the case.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Dated: August 22, 2005